

HOUSE BILL 1038

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11r2322
CF SB 747

By: **Delegate Palakovich Carr**

Introduced and read first time: February 5, 2021

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Elections – Membership, Contract Management, Ballot Drop**
3 **Boxes, and Voting System Financing**

4 FOR the purpose of altering the membership of the State Board of Elections; requiring
5 certain members of the State Board to have expertise or experience in certain areas;
6 providing for a nonvoting, ex officio member of the State Board; altering the duties
7 of the State Board to include reviewing and voting on certain contracts and ensuring
8 the cost effectiveness of the use of certain funds; requiring the State Administrator
9 of Elections to report each proposed contract, contract renewal, and change order to
10 the State Board; providing for the content of a certain report; authorizing the State
11 Administrator to finalize a contract, contract renewal, or change order only under
12 certain circumstances; requiring that a certain report of the State Board to the Board
13 of Public Works include certain information and prohibiting the report from
14 itemizing funding in a certain manner; requiring the State to pay the costs of certain
15 items relating to the uniform statewide voting system; requiring the counties to
16 reimburse the State Board for a certain amount of the State's costs of certain items
17 relating to the uniform statewide voting system; providing for the calculation of a
18 county's share of a certain cost; providing for the construction of certain provisions
19 of this Act; requiring a certain team to collect absentee ballots collected in a ballot
20 drop box; prohibiting certain persons from collecting absentee ballots in a certain
21 container; repealing certain provisions of law exempting certain counties from
22 paying certain costs for the uniform statewide voting system under certain
23 circumstances; repealing a certain provision of law that distributes certain federal
24 funds received for certain improvements in voting systems and equipment; repealing
25 a certain provision of law rendered obsolete by a certain provision of this Act;
26 providing for the termination of the terms and the appointment of members of the
27 State Board; declaring the intent of the General Assembly that members of the State
28 Board be appointed in a certain priority order if a vacancy on the State Board occurs;
29 defining a certain term; making conforming changes; and generally relating to the
30 administration of elections and the State Board of Elections.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY renumbering
 2 Article – Election Law
 3 Section 9–311 and 9–312, respectively
 4 to be Section 9–312 and 9–313, respectively
 5 Annotated Code of Maryland
 6 (2017 Replacement Volume and 2020 Supplement)

7 BY repealing and reenacting, with amendments,
 8 Article – Election Law
 9 Section 2–101 and 2–102
 10 Annotated Code of Maryland
 11 (2017 Replacement Volume and 2020 Supplement)

12 BY adding to
 13 Article – Election Law
 14 Section 2–103.1, 2–110, 2–111, and 9–311
 15 Annotated Code of Maryland
 16 (2017 Replacement Volume and 2020 Supplement)

17 BY repealing
 18 Chapter 564 of the Acts of the General Assembly of 2001
 19 Section 4, 5, and 6

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 21 That Section(s) 9–311 and 9–312, respectively, of Article – Election Law of the Annotated
 22 Code of Maryland be renumbered to be Section(s) 9–312 and 9–313, respectively.

23 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
 24 as follows:

25 **Article – Election Law**

26 2–101.

27 (a) **(1)** There is a State Board of Elections consisting of [five] **SEVEN VOTING**
 28 **members AND ONE NONVOTING MEMBER.**

29 **(2) OF THE VOTING MEMBERS:**

30 **(I) ONE SHALL BE FROM A COUNTY WITH 300,000 OR FEWER**
 31 **REGISTERED VOTERS, JOINTLY NOMINATED BY THE PRESIDENT OF THE SENATE**
 32 **AND SPEAKER OF THE HOUSE OF DELEGATES;**

33 **(II) ONE SHALL BE FROM A COUNTY WITH MORE THAN 300,000**
 34 **REGISTERED VOTERS, JOINTLY NOMINATED BY THE PRESIDENT OF THE SENATE**
 35 **AND THE SPEAKER OF THE HOUSE OF DELEGATES;**

1 (III) ONE SHALL HAVE EXPERTISE IN PROCUREMENT;

2 (IV) ONE SHALL HAVE EXPERTISE IN CYBERSECURITY;

3 (V) ONE SHALL HAVE EXPERIENCE ADVOCATING FOR
4 INDIVIDUALS WITH DISABILITIES;

5 (VI) ONE SHALL HAVE EXPERIENCE IN ADVANCING DIVERSITY
6 AND INCLUSION IN ORGANIZATIONS; AND

7 (VII) ONE SHALL BE A MEMBER OF THE GENERAL PUBLIC.

8 (3) THE PRESIDENT OF THE MARYLAND ASSOCIATION OF ELECTION
9 OFFICIALS SHALL BE A NONVOTING, EX OFFICIO MEMBER OF THE STATE BOARD.

10 (b) The State Board shall maintain its principal office in Annapolis and have staff,
11 subject to the State Personnel and Pensions Article, as provided in the State budget.

12 (c) (1) Each VOTING member of the State Board shall:

13 (i) subject to subsection (g)(2) of this section, be appointed by the
14 Governor in accordance with paragraph (2) of this subsection, with the advice and consent
15 of the Senate of Maryland;

16 (ii) be a registered voter in the State for the 5 years immediately
17 preceding the appointment;

18 (iii) subject to subsection (f)(3) of this section, be eligible for
19 reappointment;

20 (iv) conform to the restrictions specified under § 2-301 of this title;
21 and

22 (v) be subject to removal by the Governor for incompetence,
23 misconduct, or other good cause, upon written charges filed by the Governor with the State
24 Board and after having been afforded notice and ample opportunity to be heard.

25 (2) Subject to subsection (e) of this section, the Governor shall appoint as a
26 member of the State Board an individual whose name is submitted to the Governor by the
27 State Central Committee of the principal political party entitled to the appointment.

28 (d) Before taking office, each appointee to the State Board shall take the oath
29 required by Article I, § 9 of the Maryland Constitution.

30 (e) (1) Each VOTING member of the State Board shall be a member of one of

1 the principal political parties.

2 (2) A person may not be appointed to the State Board if the appointment
3 will result in the State Board having more than [three] **FOUR** or fewer than [two] **THREE**
4 members of the same principal political party.

5 (f) (1) The term of a **VOTING** member is 4 years and begins on July 1.

6 (2) The terms of the **VOTING** members are staggered as required by the
7 terms provided for members of the State Board on [July 1, 1999] **JUNE 1, 2021**.

8 (3) A **VOTING** member may not serve more than three consecutive terms.

9 (4) At the end of a term, a **VOTING** member continues to serve until a
10 successor is appointed and qualifies.

11 (g) (1) If a vacancy occurs on the State Board, it shall be filled for the
12 remainder of the unexpired term and until a successor is appointed and qualifies.

13 (2) An appointment made while the Senate of Maryland is not in session
14 shall be considered temporary until the appointee is confirmed by the Senate.

15 (h) Not later than August 1 each year, the State Board shall elect one of its
16 members as [chairman] **CHAIR**.

17 (i) Each member shall receive:

18 (1) per diem compensation as provided in the State budget for each day
19 that the member is actually engaged in the discharge of official duties, as authorized by the
20 State Board and in accordance with the State budget; and

21 (2) reimbursement for all necessary and proper expenses, as provided in
22 the State budget.

23 2-102.

24 (a) The State Board shall manage and supervise elections in the State and ensure
25 compliance with the requirements of this article and any applicable federal law by all
26 persons involved in the elections process.

27 (b) In exercising its authority under this article and in order to ensure compliance
28 with this article and with any requirements of federal law, the State Board shall:

29 (1) supervise the conduct of elections in the State;

30 (2) direct, support, monitor, and evaluate the activities of each local board;

1 (3) have a staff sufficient to perform its functions;

2 (4) REVIEW AND VOTE ON EACH CONTRACT WITH A VALUE OF \$50,000
3 OR MORE;

4 [(4)] (5) adopt regulations to implement its powers and duties;

5 [(5)] (6) receive, or in its discretion audit, campaign finance reports,
6 account books and records kept under § 13–221 of this article, independent expenditure
7 reports filed and records kept under § 13–306 of this article, electioneering communication
8 reports filed and records kept under § 13–307 of this article, and statements filed and
9 records kept under § 14–105 of this article;

10 [(6)] (7) appoint a State Administrator in accordance with § 2–103 of this
11 subtitle;

12 [(7)] (8) maximize the use of technology in election administration,
13 including the development of a plan for a comprehensive computerized elections
14 management system;

15 [(8)] (9) canvass and certify the results of elections as prescribed by law;

16 [(9)] (10) make available to the general public, in a timely and efficient
17 manner, information on the electoral process, including a publication that includes the text
18 of this article, relevant portions of the Maryland Constitution, and information gathered
19 and maintained regarding elections;

20 (11) ENSURE THE COST-EFFECTIVE USE OF FEDERAL, STATE, AND
21 COUNTY RESOURCES IN ADMINISTERING ELECTIONS;

22 [(10)] (12) subject to § 2–106 of this subtitle and § 13–341 of this article,
23 receive, maintain, and serve as a depository for elections documents, materials, records,
24 statistics, reports, certificates, proclamations, and other information prescribed by law or
25 regulation;

26 [(11)] (13) prescribe all forms required under this article; and

27 [(12)] (14) serve as the official designated office in accordance with the
28 Uniformed and Overseas Citizens Absentee Voting Act for providing information regarding
29 voter registration and absentee ballot procedures for absent uniformed services voters and
30 overseas voters with respect to elections for federal office.

31 (c) The powers and duties assigned to the State Board under this article shall be
32 exercised in accordance with an affirmative vote by a supermajority of the members of the
33 State Board.

- 1 (d) (1) The State Board shall make publicly available on its website:
- 2 (i) each open meeting agenda:
- 3 1. at least 48 hours in advance of each meeting; or
- 4 2. if the meeting is being held due to an emergency, a natural
- 5 disaster, or any other unanticipated situation, as far in advance of the meeting as
- 6 practicable;
- 7 (ii) meeting minutes from the portions of a meeting that were held
- 8 in open session, not more than 2 business days after the minutes are approved; and
- 9 (iii) live video streaming of each portion of a meeting that is held in
- 10 open session.
- 11 (2) The State Board shall maintain on its website:
- 12 (i) meeting minutes made available under paragraph (1)(ii) of this
- 13 subsection for a minimum of 5 years after the date of the meeting; and
- 14 (ii) a complete and unedited archived video recording of each open
- 15 meeting for which live video streaming was made available under paragraph (1)(iii) of this
- 16 subsection for a minimum of 1 year after the date of the meeting.
- 17 (3) The Department of Information Technology shall provide to the State
- 18 Board the technical staff, support, and equipment necessary to stream live video of the open
- 19 meetings of the State Board.

20 **2-103.1.**

21 **(A) THE STATE ADMINISTRATOR SHALL REPORT EACH PROPOSED**

22 **CONTRACT, CONTRACT RENEWAL, AND CHANGE ORDER TO THE STATE BOARD.**

23 **(B) THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION**

24 **SHALL INCLUDE:**

25 **(1) THE PURPOSE OF THE CONTRACT, CONTRACT RENEWAL, OR**

26 **CHANGE ORDER;**

27 **(2) HOW THE PROPOSED CONTRACT, CONTRACT RENEWAL, OR**

28 **CHANGE ORDER WILL BE FUNDED;**

29 **(3) THE DISTRIBUTION OF ANY FEDERAL OR STATE FUNDS RELATING**

30 **TO THE PROPOSED CONTRACT, CONTRACT RENEWAL, OR CHANGE ORDER; AND**

1 **(4) A LIST OF ANY SHARED COSTS WITH LOCAL BOARDS.**

2 **(C) THE STATE ADMINISTRATOR MAY FINALIZE A CONTRACT, CONTRACT**
3 **RENEWAL, OR CHANGE ORDER ONLY AFTER AN AFFIRMATIVE VOTE OF THE STATE**
4 **BOARD.**

5 **2-110.**

6 **A STATE BOARD REPORT TO THE BOARD OF PUBLIC WORKS ON A PROPOSED**
7 **CONTRACT, CONTRACT RENEWAL, OR CHANGE ORDER:**

8 **(1) SHALL INCLUDE:**

9 **(I) THE PURPOSE OF THE CONTRACT, CONTRACT RENEWAL, OR**
10 **CHANGE ORDER;**

11 **(II) HOW THE PROPOSED CONTRACT, CONTRACT RENEWAL, OR**
12 **CHANGE ORDER WILL BE FUNDED;**

13 **(III) THE DISTRIBUTION OF ANY FEDERAL OR STATE FUNDS**
14 **RELATING TO THE PROPOSED CONTRACT, CONTRACT RENEWAL, OR CHANGE**
15 **ORDER; AND**

16 **(IV) A DESCRIPTION OF ANY SHARED COSTS WITH LOCAL**
17 **BOARDS; AND**

18 **(2) MAY NOT ITEMIZE FUNDING AS “SPECIAL FUNDS”.**

19 **2-111.**

20 **(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE STATE SHALL PAY**
21 **THE COST OF:**

22 **(1) ACQUIRING AND OPERATING THE UNIFORM STATEWIDE VOTING**
23 **SYSTEM FOR VOTING IN POLLING PLACES AND, EXCEPT AS OTHERWISE PROVIDED**
24 **FOR IN THIS ARTICLE, FOR ABSENTEE VOTING, INCLUDING:**

25 **(I) PRINTING OF BALLOTS AND ASSOCIATED MATERIALS**
26 **RELATING TO VOTING;**

27 **(II) MAINTENANCE OF THE VOTING SYSTEM; AND**

1 (III) TECHNICAL SUPPORT AND PROGRAMMING FOR THE VOTING
2 SYSTEM; AND

3 (2) THE FOLLOWING ITEMS:

4 (I) STATEWIDE VOTER EDUCATION CAMPAIGNS;

5 (II) STATEWIDE DATABASE MANAGEMENT;

6 (III) MEMBERSHIP FEES FOR NATIONAL VOTER REGISTRATION
7 DATABASE SERVICES; AND

8 (IV) SOFTWARE LICENSING FEES.

9 (B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE COUNTIES SHALL
10 REIMBURSE THE STATE BOARD FOR 50% OF THE STATE'S COST OF ACQUIRING AND
11 OPERATING THE UNIFORM STATEWIDE VOTING SYSTEM, INCLUDING ANY SUPPLIES,
12 EQUIPMENT, OR MATERIALS MANDATED BY THE STATE BOARD TO BE USED BY
13 LOCAL BOARDS.

14 (C) A COUNTY'S SHARE OF THE COST REQUIRED TO BE REIMBURSED UNDER
15 SUBSECTION (B) OF THIS SECTION SHALL BE BASED ON THE COUNTY'S VOTING AGE
16 POPULATION AS DETERMINED BY THE STATE BOARD ON A DATE SET IN
17 REGULATION.

18 (D) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT THE STATE
19 BOARD FROM FACILITATING THE PROCUREMENT OF SUPPLIES, EQUIPMENT, OR
20 MATERIALS AT LOCAL EXPENSE THAT IS NOT MANDATED BY THE STATE BOARD OR
21 IN A QUANTITY OR AMOUNT IN EXCESS OF THAT DETERMINED NECESSARY BY THE
22 STATE BOARD, AT THE REQUEST OF A LOCAL BOARD.

23 9-311.

24 (A) IN THIS SECTION, "BALLOT DROP BOX" MEANS A CONTAINER PROVIDED
25 OR AUTHORIZED BY THE STATE BOARD OR A LOCAL BOARD TO COLLECT ABSENTEE
26 BALLOTS DURING AN ELECTION THAT MEETS THE SECURITY, MONITORING, BALLOT
27 REMOVAL, AND OTHER REQUIREMENTS ESTABLISHED BY THE STATE BOARD.

28 (B) A TEAM OF INDIVIDUALS AUTHORIZED BY A LOCAL BOARD SHALL
29 COLLECT ABSENTEE BALLOTS COLLECTED IN A BALLOT DROP BOX.

30 (C) AN INDIVIDUAL, AN ORGANIZATION, AN ASSOCIATION, A POLITICAL
31 PARTY, OR ANY OTHER PERSON MAY NOT COLLECT ABSENTEE BALLOTS DURING AN

1 ELECTION IN A CONTAINER THAT IS:

2 (1) NOT A BALLOT DROP BOX; BUT

3 (2) IS LABELED, MARKED, OR OTHERWISE DESIGNATED TO APPEAR
4 TO BE AN OFFICIAL OR UNOFFICIAL BALLOT DROP BOX.

5 Chapter 564 of the Acts of 2001

6 [SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Section 5 of this
7 Act, each county shall pay its share of one-half of the State's cost of acquiring and operating
8 the uniform statewide voting systems for voting in polling places and for absentee voting
9 provided for under this Act, including the cost of maintenance, storage, printing of ballots,
10 technical support and programming, related supplies and materials, and software licensing
11 fees. A county's share of the cost of acquiring and operating the uniform statewide voting
12 systems shall be based upon the county's voting age population.]

13 [SECTION 5. AND BE IT FURTHER ENACTED, That:

14 (a) A county that has purchased a voting system for voting at polling places
15 within the last 10 years and before December 31, 2000 is not required to implement the
16 uniform statewide voting system for voting at polling places provided for under this Act
17 until July 1, 2006, and is not required to pay a share of the cost of acquiring and operating
18 the uniform statewide voting system for voting at polling places until the system is
19 implemented in the county; and

20 (b) A county that has purchased a voting system for absentee voting within the
21 last 10 years and before December 31, 2000 is not required to implement the uniform
22 statewide system for absentee voting provided for under this Act until July 1, 2006, and is
23 not required to pay a share of the cost of acquiring and operating the uniform statewide
24 system for absentee voting until the system is implemented in the county.]

25 [SECTION 6. AND BE IT FURTHER ENACTED, That fifty percent of any federal
26 funds received for improvements in voting systems and equipment shall be distributed to
27 the State and fifty percent of any federal funds received for improvements in voting systems
28 and equipment shall be distributed, on the basis of a county's voting age population, to the
29 counties that have implemented the uniform statewide voting system provided for under
30 this Act in the fiscal year in which the funds are received.]

31 SECTION 3. AND BE IT FURTHER ENACTED, That:

32 (a) The terms of the members of the State Board of Elections serving on the
33 effective date of this Act shall terminate as follows:

34 (1) the term of the one member whose term is scheduled to expire on June
35 30, 2021, shall terminate on June 30, 2021, and the one member with expertise in

1 procurement and the one member with expertise in cybersecurity appointed by the
2 Governor in 2021 shall succeed the member whose term expires on June 30, 2021, and serve
3 for a term of 4 years until a successor is appointed and qualifies;

4 (2) the Governor shall appoint one member with experience advocating for
5 individuals with disabilities in 2022, and the member shall serve for a term of 4 years
6 beginning July 1, 2022, until a successor is appointed and qualifies;

7 (3) the terms of the three members whose terms are scheduled to expire on
8 June 30, 2023, shall terminate at the end of June 30, 2023, and the following members
9 appointed by the Governor in 2023 shall succeed the members whose terms expire on June
10 30, 2023, and serve for a term of 4 years until a successor is appointed and qualifies:

11 (i) one member with experience in advancing diversity and
12 inclusion in organizations; and

13 (ii) two members from counties of a specified population size; and

14 (4) the term of the one member whose term is scheduled to expire on June
15 30, 2024, shall terminate on June 30, 2024, and the member from the general public
16 appointed by the Governor in 2024 shall succeed the member whose term expires on June
17 30, 2024, and serve for a term of 4 years until a successor is appointed and qualified.

18 (b) Notwithstanding the provisions of subsection (a) of this section, it is the intent
19 of the General Assembly that the members of the State Board of Elections be appointed in
20 the following priority order if a vacancy occurs:

21 (1) the member with expertise in procurement;

22 (2) the member with expertise in cybersecurity;

23 (3) the member with experience advocating for individuals with
24 disabilities; and

25 (4) the member with experience advancing diversity and inclusion in
26 organizations.

27 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June
28 1, 2021.